

AMENDED IN SENATE JUNE 5, 1997
AMENDED IN SENATE MAY 13, 1997
AMENDED IN SENATE APRIL 22, 1997
AMENDED IN SENATE APRIL 7, 1997
AMENDED IN SENATE MARCH 31, 1997

SENATE BILL

No. 545

Introduced by Senator Rosenthal

February 24, 1997

An act to amend Sections 668 and 668.1 of, to add Section 658.6 to, and to repeal and add Section 658.5 of, the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 545, as amended, Rosenthal. Operation of vessels.

(1) Existing law makes a person who permits another person under 12 years of age to operate a motorboat, as defined, under certain circumstances guilty of an infraction and makes a person under 12 years of age who operates a motorboat under those circumstances guilty of an infraction with specified penalties upon conviction of a violation.

This bill, instead, would make a person under 16 years of age who operates a vessel powered by a motor of greater than ~~40~~ 15 horsepower on the waters of this state, with specified exceptions, guilty of an infraction. One of these exceptions would authorize any person who is at least 12 years of age, but less than 16 years of age, to operate this type of vessel,

provided the person has been issued a boating safety identification card or a temporary boating safety identification card and is accompanied in the vessel by a person who meets specified requirements.

The bill also would make a person who permits another person under 16 years of age to operate a vessel in violation of these provisions, with the specified exceptions, guilty of an infraction.

Because the bill would change the definition of, and create, new crimes, the bill would impose a state-mandated local program.

(2) Existing law does not require the operator of a motorboat on the waters of this state to possess a license to operate that motorboat.

This bill, commencing July 1, 1998, would prohibit a person from operating a vessel powered by a motor greater than ~~40~~ 15 horsepower on the waters of this state unless the person has been issued a boating safety identification card or a temporary boating safety identification card showing that the person has completed a boating education course or passed an equivalency examination, as specified. Until December 31, 2002, the prohibition would apply to a person born after January 1, 1982, and on and after January 1, 2003, the prohibition would apply to any person 21 years of age or younger. The bill would make a person who violates the prohibition guilty of an infraction with specified penalties. Because the bill would create a new crime, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. Section 658.5 of the Harbors and Navigation Code is repealed.

SEC. 2. Section 658.5 is added to the Harbors and Navigation Code, to read:

658.5. (a) Any person under 16 years of age who operates a vessel powered by a motor of greater than ~~40~~ 15 horsepower on the waters of this state, except for a dinghy used directly to or from a moored vessel and the shoreline or another moored vessel or a vessel designed to use wind as its principal source of propulsion, or except as provided in subdivision (b), is guilty of an infraction.

(b) Any person who is at least 12 years of age, but less than 16 years of age, may operate a vessel powered by a motor of greater than ~~40~~ 15 horsepower on the waters of this state if all of the following apply:

(1) The person has been issued a boating safety identification card or temporary boating safety identification card pursuant to Section 658.6.

(2) The person is accompanied in the vessel by a person who meets all of the following requirements:

(A) Is either exempt from obtaining a boating safety identification card or has been issued a boating safety identification card or a temporary boating safety identification card pursuant to Section 658.6.

(B) Is 18 years of age or older.

(C) Is present and supervising the operation of the vessel.

(c) Any person who permits any other person under 16 years of age to operate a vessel in violation of this section is guilty of an infraction.

SEC. 3. Section 658.6 is added to the Harbors and Navigation Code, to read:

658.6. (a) Until December 31, 2002, a person born after January 1, 1982, and on or after January 1, 2003, a person 21 years of age or younger, may not operate on the waters of this state a vessel powered by a motor of greater than ~~40~~ 15 horsepower, unless that person has been issued a boating safety identification card or a temporary

1 boating safety identification card that shows that the
2 person has done either of the following:

3 (1) Completed a boating education course approved
4 by the department.

5 (2) Passed a boating education course equivalency
6 examination developed or approved by the department.

7 (b) The department may designate agents to
8 administer the boating education course or boating
9 education course equivalency examination and issue
10 temporary boating safety identification cards under
11 guidelines established by the department. The
12 department shall ensure that boating education courses,
13 boating education course equivalency examinations, and
14 temporary boating safety identification cards are
15 available in each county of the state.

16 (c) A boating safety identification card issued to a
17 person who has completed a boating education course or
18 passed a boating education course equivalency
19 examination is valid for life. A person shall display the
20 boating safety identification card upon citation,
21 detention, or arrest to a law enforcement officer upon
22 request, or shall display the card to a law enforcement
23 officer within 30 days, indicating that the person had
24 complied with subdivision (a) prior to the date of the
25 incident which is the basis for the citation, detention, or
26 arrest.

27 (d) Subdivision (a) does not apply to a person who
28 meets any of the following conditions:

29 (1) The person holds a valid master's, mate's, or
30 operator's license issued by the United States Coast
31 Guard or issued by an entity in another country that the
32 department determines to be equivalent to the Coast
33 Guard.

34 (2) The person operates a vessel only on a private lake
35 or pond.

36 (3) The person is a nonresident who has in his or her
37 possession proof that he or she has completed a boating
38 education course or passed a boating education course
39 equivalency examination administered in another state



1 or country that the department determines meets or
2 exceeds the requirements of subdivision (a).

3 (4) The person is exempted by regulation of the
4 department.

5 (5) A person using a rented or leased vessel if all of the
6 following conditions are met:

7 (A) The person rents or leases the vessel from a boat
8 business licensed by a city or county.

9 (B) The rental or lease contract specifies that the
10 renter or lessee has been instructed by the owner of the
11 business or the authorized agent of the owner in the safe
12 operation of the vessel and the hazards of unsafe
13 operation of the vessel.

14 (C) The owner of the business has complied with the
15 terms of the rental or lease contract, and all parties sign
16 the contract.

17 (6) The person is accompanied in the vessel by a
18 person who meets both of the following requirements:

19 (A) The accompanying person is either exempt from
20 the requirements of this section or displays a boating
21 safety identification card or a temporary—~~boater~~ *boating*
22 safety identification card upon citation, detention, or
23 arrest to a law enforcement officer upon request, or
24 displays the card to a law enforcement officer within 30
25 days, indicating that the person had complied with
26 subdivision (a) prior to the date of the incident which is
27 the basis for the citation, detention, or arrest.

28 (B) The accompanying person is 18 years of age or
29 older and is present and supervising the operation of the
30 vessel.

31 (7) The person holds a for-hire vessel operator's
32 license issued by the department.

33 ~~(e) The department shall attempt to provide the~~
34 ~~equivalency examination at no charge to the boater. If the~~
35 ~~department determines that an examination fee is~~
36 ~~necessary, the fee set by the department shall not exceed~~
37 ~~_____ dollars (\$_____).~~

38 *(e) The department may charge a fee for issuance of*
39 *the boating safety identification card in an amount not to*
40 *exceed the direct costs and labor necessary to prepare the*

1 *card and, in no event, to exceed five dollars (\$5) per card.*
2 *The department shall not charge a fee to the extent that*
3 *the Legislature appropriates funds for the direct costs and*
4 *labor necessary to prepare the card.*

5 (f) A person who violates this section is guilty of an
6 infraction.

7 (g) The department shall consult with the following
8 individuals and groups in the development of boating
9 safety identification cards and temporary boating safety
10 identification cards: recreational boaters; law
11 enforcement officers; the United States Power Squadron;
12 the United States Coast Guard Auxiliary; boating, sailing,
13 and yachting clubs and organizations; the National
14 Association of Boating Law Administrators; boat dealers
15 and yacht brokers; and providers of boating education
16 courses.

17 (h) As used in this section, the following terms mean:

18 (1) "Boating education course" means a
19 comprehensive boating safety course certified by the
20 department in accordance with criteria set forth in
21 Section 8000 of Title 14 of the California Code of
22 Regulations.

23 (2) "Boating education course equivalency
24 examination" means a boating safety written
25 examination approved by the department.

26 (3) "Boating safety identification card" means a card
27 issued by the department to a person who has completed
28 a boating education course or passed a boating education
29 course equivalency examination.

30 (4) "Temporary boating safety identification card"
31 means a card issued by an agent, designated by the
32 department, to a person who has completed a boating
33 education course and who is awaiting the delivery of a
34 boating safety identification card from the department.

35 (i) This section shall become operative on July 1, 1998.

36 SEC. 4. Section 668 of the Harbors and Navigation
37 Code is amended to read:

38 668. (a) Any person who violates subdivision (c) of
39 Section 652, Section 654, 654.05, 654.06, 658.3, 659, 673, 674,
40 or 754, or any rules or regulations adopted pursuant

thereto, is guilty of an infraction, punishable by a fine of not more than two hundred fifty dollars (\$250).

(b) (1) Any person who violates Section 655.2 or 655.3, or any regulation adopted pursuant thereto, is guilty of a misdemeanor, punishable by a fine of not more than one hundred dollars (\$100) or imprisonment in a county jail for not more than five days, or by both that fine and imprisonment, for each violation.

(2) Any person who violates subdivision (a) or (b) of Section 658 is guilty of a misdemeanor, punishable by a fine of not more than two hundred dollars (\$200) for each violation.

(3) Any person who violates subdivision (d) of Section 652, Section 652.5, subdivision (a) of Section 655, Section 655.05, 656, or 656.1, subdivision (d) or (e) of Section 658, Section 663.6 or 665, or any rules and regulations adopted pursuant to subdivision (b) or (c) of Section 660, is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment in a county jail for not more than six months, or by both that fine and imprisonment, for each violation.

(c) Any person convicted of a first violation of subdivision (b), (c), (d), or (e) of Section 655, or of a violation of Section 655.4, shall be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment in a county jail for not more than six months, or by both that fine and imprisonment. If probation is granted, the court, as a condition of probation, may require the person to participate in, and successfully complete, an alcohol or drug education, training, or treatment program, in addition to imposing any penalties required by this code. In order to enable all persons to participate in licensed programs, every person referred to a program licensed pursuant to Section 11836 of the Health and Safety Code shall pay that program's costs commensurate with that person's ability to pay as determined by Section 11837.4 of the Health and Safety Code.

(d) Any person convicted of a second or subsequent violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of the first conviction of any of those

1 subdivisions or subdivision (f) of Section 655, or any
2 person convicted of a violation of subdivision (b), (c),
3 (d), or (e) of Section 655 within seven years of a separate
4 conviction of Section 191.5 or subdivision (c) of Section
5 192.5 of the Penal Code, when the separate conviction
6 resulted from the operation of a vessel, or a separate
7 conviction of Section 23152 or 23153 of the Vehicle Code
8 or of Section 191.5 or paragraph (3) of subdivision (c) of
9 Section 192 of the Penal Code, when the separate
10 conviction resulted from the operation of a motor vehicle,
11 shall be punished by a fine of not more than one thousand
12 dollars (\$1,000) or imprisonment in a county jail for not
13 more than one year, or by both that fine and
14 imprisonment. If probation is granted, the court, as a
15 condition of probation, may require the person to do
16 either of the following, if available in the county of the
17 person's residence or employment:

18 (1) Participate, for at least 18 months subsequent to
19 the underlying conviction and in a manner satisfactory to
20 the court, in a program licensed pursuant to Chapter 9
21 (commencing with Section 11836) of Part 2 of Division
22 10.5 of the Health and Safety Code, as designated by the
23 court. In order to enable all required persons to
24 participate, each person shall pay the program costs
25 commensurate with the persons ability to pay as
26 determined pursuant to Section 11837.4 of the Health and
27 Safety Code.

28 (2) Participate, for at least 30 months subsequent to
29 the underlying conviction and in a manner satisfactory to
30 the court, in a program licensed pursuant to Chapter 9
31 (commencing with Section 11836) of Part 2 of Division
32 10.5 of the Health and Safety Code. A person ordered to
33 treatment pursuant to this paragraph shall apply to the
34 court or to a board of review, as designated by the court,
35 at the conclusion of the program to obtain the court's
36 order of satisfaction. Only upon the granting of that order
37 of satisfaction by the court may the program issue its
38 certificate of successful completion. A failure to obtain an
39 order of satisfaction at the conclusion of the program is a
40 violation of probation. In order to enable all required

1 persons to participate, each person shall pay the program
2 costs commensurate with the person's ability to pay as
3 determined pursuant to Section 11837.4 of the Health and
4 Safety Code. No condition of probation required
5 pursuant to this paragraph is a basis for reducing any
6 other probation requirement.

7 (e) Any person convicted of a violation of subdivision
8 (f) of Section 655 shall be punished by imprisonment in
9 the state prison, or in a county jail for not less than 90 days
10 or more than one year, and by a fine of not less than two
11 hundred fifty dollars (\$250) or more than five thousand
12 dollars (\$5,000). If probation is granted, the court, as a
13 condition of probation, may require the person to
14 participate in, and successfully complete, a program
15 licensed pursuant to Chapter 9 (commencing with
16 Section 11836) of Part 2 of Division 10.5 of the Health and
17 Safety Code, if available in the person's county of
18 residence or employment, as designated by the court. In
19 order to enable all required persons to participate, each
20 person shall pay the program costs commensurate with
21 the person's ability to pay as determined pursuant to
22 Section 11837.4 of the Health and Safety Code.

23 (f) (1) If any person is convicted of a violation of
24 subdivision (f) of Section 655 within seven years of a
25 separate conviction of a violation of subdivision (b), (c),
26 (d), or (e) of Section 655 and is granted probation, the
27 court shall impose as a condition of probation that the
28 person be confined in a county jail for not less than five
29 days or more than one year and pay a fine of not less than
30 two hundred fifty dollars (\$250) or more than five
31 thousand dollars (\$5,000).

32 (2) If any person is convicted of a violation of
33 subdivision (f) of Section 655 within seven years of a
34 separate conviction of a violation of subdivision (f) of
35 Section 655, of Section 191.5 or subdivision (c) of Section
36 192.5 of the Penal Code, when the prior conviction
37 resulted from the operation of a vessel, or Section 23152
38 or 23153 of the Vehicle Code or Section 191.5 or paragraph
39 (3) of subdivision (c) of Section 192 of the Penal Code,
40 when the separate conviction resulted from the operation

1 of a motor vehicle, and is granted probation, the court
2 shall impose as a condition of probation that the person
3 be confined in a county jail for not less than 90 days or
4 more than one year, and pay a fine of not less than two
5 hundred fifty dollars (\$250) or more than five thousand
6 dollars (\$5,000), and the court may order, as a condition
7 of probation, that the person participate in a manner
8 satisfactory to the court, in a program licensed pursuant
9 to Chapter 9 (commencing with Section 11836) of Part 2
10 of Division 10.5 of the Health and Safety Code, if available
11 in the county of the person's residence or employment.
12 In order to enable all required persons to participate,
13 each person shall pay the program costs commensurate
14 with the person's ability to pay as determined pursuant to
15 Section 11837.4 of the Health and Safety Code.

16 (g) The court shall not absolve a person who is
17 convicted of a violation of subdivision (f) of Section 655
18 within seven years of a separate conviction of a violation
19 of subdivision (b), (c), (d), (e), or (f) of Section 655, of
20 Section 191.5 or subdivision (c) of Section 192.5 of the
21 Penal Code, when the separate conviction resulted from
22 the operation of a vessel, or Section 23152 or 23153 of the
23 Vehicle Code or Section 191.5 or paragraph (3) of
24 subdivision (c) of Section 192 of the Penal Code, when the
25 separate conviction resulted from the operation of a
26 motor vehicle, from the minimum time in confinement
27 provided in this section and a fine of at least two hundred
28 fifty dollars (\$250), except as provided in subdivision (h).

29 (h) Except in unusual cases where the interests of
30 justice demand an exception, the court shall not strike a
31 separate conviction of an offense under subdivision (b),
32 (c), (d), (e), or (f) of Section 655 or of Section 191.5 or
33 subdivision (c) of Section 192.5 of the Penal Code, when
34 the prior conviction resulted from the operation of a
35 vessel, or Section 23152 or 23153 of the Vehicle Code or
36 Section 191.5 or paragraph (3) of subdivision (c) of
37 Section 192 of the Penal Code, when the separate
38 conviction resulted from the operation of a motor vehicle,
39 for purposes of sentencing in order to avoid imposing, as
40 part of the sentence or as a term of probation, the



1 minimum time in confinement and the minimum fine, as
2 provided in this section. When a separate conviction is
3 stricken by the court for purposes of sentencing, the court
4 shall specify the reason or reasons for the striking order.
5 On appeal by the people from an order striking a separate
6 conviction, it shall be conclusively presumed that the
7 order was made only for the reasons specified in the
8 order, and the order shall be reversed if there is no
9 substantial basis in the record for any of those reasons.

10 (i) Any person convicted of a violation of Section 656.2
11 or 656.3 shall be punished by a fine of not more than ten
12 thousand dollars (\$10,000) or imprisonment in the state
13 prison or in a county jail for not more than one year, or
14 by both that fine and imprisonment.

15 (j) Any person convicted of a violation of Section 658.5
16 or 658.6 shall be punished by a fine of not more than one
17 hundred dollars (\$100).

18 SEC. 5. Section 668.1 of the Harbors and Navigation
19 Code is amended to read:

20 668.1. (a) Any person convicted of a violation of
21 subdivision (a), (b), (c), (d), (e), or (f) of Section 655
22 pertaining to a mechanically propelled vessel but not to
23 manipulating any water skis, an aquaplane, or similar
24 device, or any person convicted of a violation of Section
25 655.2, 655.6, 658, 658.5, or 658.6 of this code, or Section
26 191.5 of the Penal Code, when the conviction resulted
27 from the operation of a vessel, may be ordered by the
28 court to complete and pass a boating safety course
29 approved by the department.

30 (b) Any person convicted of a violation of subdivision
31 (a), (b), (c), (d), (e), or (f) of Section 655 pertaining to
32 a mechanically propelled vessel but not to manipulating
33 any water skis, an aquaplane, or similar device, or any
34 person convicted of a violation of Section 655.2, 655.6, 658,
35 or 658.5 of this code, or Section 191.5 of the Penal Code,
36 when the conviction resulted from the operation of a
37 vessel within seven years of a previous conviction of any
38 of those violations, shall be ordered by the court to
39 complete and pass a boating safety course approved by
40 the department.

1 (c) Any person who has been ordered by the court to
2 complete and pass a boating safety course pursuant to
3 subdivision (a) or (b) shall submit to the court proof of
4 completion and passage of the course within seven
5 months of the time of his or her conviction. The proof
6 shall be in a form that has been approved by the
7 department and that provides for the ability to submit the
8 form to the court through the United States Postal
9 Service. If the person who has been required to complete
10 and pass a boating safety course is under 18 years of age,
11 the court may require that the person obtain parental
12 consent to enroll in the course. If the person does not
13 complete and pass the boating safety course, the court
14 may extend the period for completion or impose another
15 penalty as prescribed by statute.

16 (d) The department shall adopt regulations to carry
17 out this section, including approval of boating safety
18 education courses, prescribing the forms for proof of
19 completion and passage, and setting forth any fees to be
20 charged to course participants, which fees shall not
21 exceed the expenses associated with providing the
22 course.

23 SEC. 6. No reimbursement is required by this act
24 pursuant to Section 6 of Article XIII B of the California
25 Constitution because the only costs that may be incurred
26 by a local agency or school district will be incurred
27 because this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition
31 of a crime within the meaning of Section 6 of Article
32 XIII B of the California Constitution.

33 Notwithstanding Section 17580 of the Government
34 Code, unless otherwise specified, the provisions of this act
35 shall become operative on the same date that the act
36 takes effect pursuant to the California Constitution.

